



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2015-0481]**

**Motor Carriers of Passengers that Serve Primarily Urban Areas with High Passenger Loads**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of Information and request for comments.

**SUMMARY:** This request for comments is related to the implementation of a specific provision in section 32707 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) that requires an annual safety fitness assessment of certain motor carriers of passengers that serve primarily urban areas with high passenger loads. FMCSA requests comments about an appropriate definition of a “curbside bus operator” that will be subject to this annual safety fitness assessment and will be consistent with Congressional intent.

**DATES:** You must submit comments by [INSERT 60 DAYS AFTER DATE OF PUBLICATION].

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2015-0481 using any of the following methods:

- Federal eRulemaking Portal: Go to [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: All comments received were posted without change to <http://www.regulations.gov>. In accordance with 5 U.S.C. 553(c), DOT previously solicited comments from the public to better inform its rulemaking process. DOT posted these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Ms. Loretta Bitner, (202) 385-2428, [loretta.bitner@dot.gov](mailto:loretta.bitner@dot.gov). FMCSA office hours are from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Operations, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**Background**

Motorcoach safety received increased public attention after several serious crashes during 2011, some of which involved “curbside” bus operators, passenger carrier operations often characterized by high passenger loads with service between urban areas. As a result, the National Transportation Safety Board (NTSB) conducted an investigation of motorcoach safety with an emphasis on curbside operations. One objective of the investigation was to describe the characteristics of the curbside business model among interstate motorcoach carriers. The NTSB examined a population of 4,172 active interstate motorcoach carriers operating in the United States and identified 71 of them as scheduled motorcoach carriers providing curbside service.

In its “Executive Report on Curbside Motorcoach Safety” that was published on October 12, 2011, the NTSB stated the following in describing curbside bus operators:

The term “curbside operations” refers to a business model (that is, the means by which motorcoach service is provided) rather than a type of motorcoach carrier. In fact, no formal definition of curbside carriers exists, and federal and state oversight authorities have no unique categorization or tracking mechanism for these carriers. For the purpose of this report, curbside motorcoach operations are those in which interstate motorcoach carriers conduct scheduled trips from one city to another city or a destination and originate or terminate at a location other than a traditional bus terminal; most of these operations discharge passengers at one or more curbside locations.

Although curbside motorcoach carriers apply a similar business model, they vary greatly in other characteristics. Some carriers operate large fleets of motorcoaches throughout the United States, whereas others have a fleet of only a few buses that operate in local regions.

MAP-21 was signed into law on July 6, 2012. Section 32707, codified at 49 U.S.C. 31144(i)(4)(B), addresses improved oversight of motorcoach service providers. A "motorcoach" is defined in section 32707(b) of MAP-21 as an "over-the-road bus;" one with an elevated passenger deck over a baggage compartment. A motorcoach does not include a bus used in public transportation provided by a State or local government, or a school bus. The statute requires an annual assessment of the safety fitness of certain motor carriers of passengers that serve primarily urban areas with high passenger loads.

### **Implementation of Statutory Provision**

Section 31144(i)(4) requires that the Secretary:

- Reassess the safety fitness rating of each motor carrier of passengers at no less than once every 3 years; and
- Annually assess the safety fitness of certain motor carriers of passengers that serve primarily urban areas with high passenger loads.

The language indicates Congress' intent to have two levels of oversight for motor carrier of passengers, a safety fitness rating every 3 years for each passenger carrier and, a safety fitness assessment annually for passenger carriers that serve primarily urban areas with high passenger loads. To effectively implement 49 U.S.C. 31144(i)(4)(B), FMCSA must define which passenger carriers will be subject to the annual safety fitness assessment requirement. While Congress directed that carriers of passengers that serve primarily urban areas with high passenger loads be subject to this requirement, FMCSA does not collect urban area service or passenger volume information from motor carriers of passengers that are subject to the Agency's safety oversight.

FMCSA believes Congress intends for the Agency to have increased safety oversight of the bus operators that generally provide low-cost, regularly scheduled passenger

transportation service between major cities with curbside boarding and/or disembarking.

Although some carriers purport to have a bus terminal/facility/station, the location used for passengers is a waiting area only outside of an office building and the passenger pickups and drop-offs occur at the curbside or in a parking lot.

### **Request for Comments**

Because FMCSA does not include in its regulations or regulatory guidance a definition of the term “curbside bus operator,” the Agency believes it is imperative that one be adopted in order to effectively implement 49 U.S.C. 31144(i)(4)(B). Therefore, the Agency proposes the following definition for identifying motor carriers of passengers that must undergo an annual assessment:

“Curbside Bus Operator” means a motor carrier of passengers that serves primarily urban areas with high passenger loads, and uses 25% or more of its motorcoaches for operations with passenger pickups and drop-offs occurring at the curbside or in a parking lot.

FMCSA would use this definition in identifying, tracking, and conducting the annual safety fitness assessments of every identified curbside bus operators. This definition would not have any impact on the enforcement of the applicable safety regulations. It would only be used to identify those carriers that Congress intends the Agency conduct annual safety assessments.

FMCSA is considering the use of the following questions during the motor carrier registration process to identify curbside bus operators that transport high passenger loads:

Does your company operate 25% or more of its motorcoaches between cities providing for-hire passenger transportation that originates or terminates at locations other than terminals, such as street corners or outside a retail business?

Is your company required to obtain a permit from a local government to pick up or drop off at locations other than terminals, such as street corners or outside a retail business?

The operation of a motorcoach to transport passengers is the FMCSA's interpretation of a high passenger load with implementation of 49 U.S.C. 31144(i)(4)(B). Motorcoaches are large capacity passenger vehicles that are frequently operated by curbside bus operators.

FMCSA requests public comments whether the proposed definition and questions are appropriate for identifying curbside operators for implementation of the statutorily mandated annual safety fitness assessments.

In addition to motor carriers of passengers that identify themselves as curbside bus operators through the motor carrier registration process, FMCSA will direct its enforcement personnel to designate passenger carriers as a curbside bus operators in the Agency's database when there is evidence that the carriers are conducting curbside bus operations, but fail to report it to the Agency or began curbside bus operations subsequent to registration. With this in mind, FMCSA is seeking input to the following questions.

1. Should FMCSA identify all motor carriers of passengers that have both curbside operations and operations that originate/terminate at a traditional bus terminal as curbside bus operators requiring an annual safety assessment?
2. Should a motor carrier of passengers that uses 25% or more of its motorcoaches for curbside operations be identified by FMCSA as a curbside bus operator requiring an annual safety assessment?

3. Should FMCSA base the percentage of curbside operations on the number of motorcoaches used in that type of service? If not, then what measure should be used?
4. Should FMCSA include passenger carrier operations that pick up passengers at the curbside in vehicles smaller than motorcoaches with the intent of transferring the passengers to a larger passenger vehicle such as a motorcoach as curbside bus operators requiring an annual safety assessment?
5. Should a motor carrier of passengers applicant be required to self-identify as a curbside operator during registration with FMCSA?
6. Should a motor carrier of passengers previously registered with FMCSA be required to self-identify as a curbside operator when updating its registration information as required by 49 CFR 390.201?
7. Should FMCSA base the definition of an urban area on population, incorporated land area, defined commercial zones, urbanized area as defined by the U. S. Census Bureau, or some other criteria?
8. Should a motor carrier of passengers with 25% or more of its motorcoach operation taking place in primarily urban areas be identified by FMCSA as a curbside bus operator requiring an annual safety assessment?

9. Is there any additional criteria we should consider to identify which motor carrier of passenger should be defined as a curbside bus operator requiring an annual safety assessment?

Issued under the authority delegated in 49 CFR 1.87 on: January 29, 2016

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T. F. Scott Darling, III,  
Acting Administrator.

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